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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,745	01/23/2004	David F. MacNeil	301700-000066	7637
43138	7590	09/28/2005	EXAMINER	
DASPIN & AUMENT, LLP 210 WEST 22ND STREET, SUITE 102 OAK BROOK, IL 60523			GREEN, BRIAN	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/763,745

Applicant(s)

MACNEIL, DAVID F.

Examiner

Brian K. Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3,4,7,8 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3,4,7,8 and 19-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Allowable Subject Matter***

The indicated allowability of claims 7,19, and 3 has been withdrawn in view of the applicant's amendment to claim 7, i.e. the applicant canceled subject in claim 7 and therefore claim 7 is no longer allowable over the present art of record.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7,20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leopold et al. (U.S. Patent No. 1,664,302) in view of Payson (U.S. Patent No. 3,983,650).

Leopold et al. shows in figures 1-3 a transparent frame (2) having a front, a periphery, an outer side and an inner side for disposal adjacent a license plate (4), a plurality of holes (6), and a rubber gasket (10). Each hole including a sidewall of nongasket material extending from the outer side of the frame to the inner side of the frame. Leopold et al. does not disclose making the sidewall of each hole extending inwardly to a plane containing the receiving surface of the gasket. Payson shows in figures 1-3 the idea of having the sidewall of a hole extend inwardly to a plane containing the receiving surface (top surface) of a gasket (26). Payson shows in figures 1-3 that a channel is formed in the frame (18,20,22,24) which receives the gasket (26). In view of the teachings of Payson it would have been obvious to one in the art to modify Leopold et al.

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by placing a channel in the plate (2) to receive the gasket (10) since this would allow the gasket to be attached to the plate in a more secure manner. When the gasket is placed within the channel the sidewall of each hole would extend inwardly to a plane containing the receiving surface of the gasket. In regard to claim 20, Leopold et al. shows in figure 2 that the openings are stepped. In regard to claim 21, Payson discloses the idea of bonding or gluing the gasket into the channel, see column 4, lines 5-7. The method of making the gasket, injection-molding, is not given any weight in an article claim.

Claims 19,3,4, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leopold et al. (U.S. Patent No. 1,664,302) in view of Payson (U.S. Patent No. 3,983,650) as applied in claim 7 above and further in view of Dutt (U.S. Patent No. 4,308,965).

Leopold et al. in view of Payson disclose the applicant's basic inventive concept except for providing at least one compression rib on the inner surface of the gasket. Dutt shows in figures 1-5 a cover (10), an elastomeric gasket (16 or 20 or 50), and the gasket inner surface includes first and second ribs. In view of the teachings of Dutt it would have been obvious to one in the art to modify Leopold et al. by attaching a rib on the inner surface of the gasket since this would allow the transparent frame to be sealed to the license plate in a better manner. In regard to claim 3, Leopold et al. does not disclose the use of a rim. Dutt shows in figures 3 and 4 the use of first and second ribs. The outer rib being considered to be a raised rim. In view of the teachings of Dutt it would have been obvious to one in the art to modify Leopold et al. by providing a second rib/raised rim since this would further improve the seal between the transparent frame and license plate. In regard to claim 4, Dutt shows that the ribs are V-shaped.

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In regard to claim 8, as broadly defined, Leopold et al. shows in figure 3 that the gasket does not completely cover the flange (3) and therefore a portion of the bottom is considered to be open.

### ***Response to Arguments***

Applicant's arguments with respect to claims 3,4,7,8, and 19-21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (571) 272-6644. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
BRIAN K. GREEN  
PRIMARY EXAMINER

Bkg  
Sept. 26, 2005